



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,500	09/30/1999	GLEN J. ANDERSON	450.282US1	5455

24333 7590 09/29/2003

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

EXAMINER

MCCHESENEY, ELIZABETH A

ART UNIT PAPER NUMBER

2644

DATE MAILED: 09/29/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/409,500

Applicant(s)

ANDERSON, GLEN J.

Examiner

Elizabeth A McChesney

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2644

DETAILED ACTION

1. This action is in response to applicant's response filed on 6/17/03. Claims 1-31 are now pending in the present application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 4, 16, 22, 23, 28 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable Dobbins (US Patent No. 5,815,586).

Regarding **claim 1**, Dobbins discloses an apparatus, which audibly transmits instructions to the user (col. 1-lines 12-14). The apparatus is a medicine container that has a closure which has a means for actuating the recording, a storage means for retaining the recorded instructions, a speaker 31 and set of controls, for example, record button 28, play button 30 and display 54 (see figure 1). Dobbins further disclose recording circuitry for encoding the verbal audio from the input means to the storage means, therefore it would have been obvious to one of ordinary skill in the art to include a processor to perform such functions as recording, retaining the instructions and

Art Unit: 2644

playing back upon activation. Dobbins provides "instructions" for a user and therefore it would have been obvious to one of ordinary skill in the art to apply the recording of audio instructions in any number of situations where a user would require audio instructions instead of paper instructions which would include a computer set up.

Regarding **claim 16**, it is interpreted and thus rejected for the same reasons as set forth above in claim 1. Since claim 16 discloses a method, which corresponds to, the apparatus of claim 1; the method is obvious in that it simply provides functionality for the structure of claim 1.

Regarding **claim 4**, Dobbins discloses everything claimed as applied above (see claim 1). Dobbins discloses a display 54. It would have been obvious to one of ordinary skill in the art to display the instruction number and/or label for the user to verify and clarify the present instruction they are listening to.

Regarding **claim 22**, Dobbins discloses everything claimed as applied above (see claim 16). See Examiner's comments regarding claim 4.

Regarding **claim 23**, Dobbins discloses providing a user with a set of audio instructions for taking medication. However it would have been obvious to one of ordinary skill to provide a user with instructions for other devices wherein the instructions are audibly heard when activated upon.

Regarding **claim 28**, Dobbins discloses everything claimed as applied above (see claim 23). See Examiner's comments regarding claim 4.

Regarding **claim 31**, see Examiner's comments regarding claim 1.

Claim Rejections - 35 USC § 103

4. **Claims 1, 3, 6-14, 16, 18-21 and 23-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918).

Regarding **claim 1**, Crowell discloses an audible message delivery system, which would be useful for providing audible recordings in place of a written message or even written instructions (col. 8-lines 7-9). The audible recording would therefore be an equivalent to, say instructions in writing and would be helpful in giving such instructions to a child or someone who is unable to read. Crowell further discloses the device, which is capable of receiving and retaining (col. 2-lines 55-56) an audible message. It would have been obvious to one of ordinary skill in the art to use a processor, which would provide the function of recording, retaining a message and playing back upon activation. In order to retain the message, it would be obvious a memory means would be provided to the storage of the message. Crowell further discloses an activation switch wherein the message is delivered when activated. Crowell further shows a speaker 28 in figure 1 for output of the audible message. Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown) for greater flexibility and control.

Regarding **claim 3**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown). It would have been

Art Unit: 2644

obvious to one of ordinary skill in the art to include various other controls that are not shown for greater flexibility and control of the audio system (col. 6-lines 31-36).

Regarding **claims 6 and 7**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses a number of applications for the audible message (col. 3-lines 23-34 and 59-65). The audio message therefore can be used for added clarity wherever written messages or instructions are used. The setup for a computer system provides written instructions and therefore would have been obvious to provide audio instructions for added enhancement (col. 3-lines 65-67).

Regarding **claim 8**, Crowell discloses everything claimed as applied above (see claim 1). Crowell discloses an alternate embodiment wherein the audible message is inserted into an envelope for mailing (col. 12-lines 19-29 and see figure 17).

Regarding **claims 9 and 10**, Crowell discloses an audible message delivery system that is affixed to number of applications for the audible message (col. 3-lines 23-34 and 59-65). It would have been obvious for one of ordinary skill in the art to affix such a device to anything that would require a message or instructions. A computer system is delivered in a box with the computer and the necessary components, which include written instructions wherein the audible delivery device would be used in combination with the written instructions or as an equivalent form of receiving instructions.

Regarding **claim 11**, Crowell discloses everything claimed as applied above (see claim 10). Crowell discloses an audible message delivery system, which would be useful for providing audible recordings in place of a written message or even written

Art Unit: 2644

instructions (col. 8-lines 7-9). The audible recording would therefore be an equivalent to, say instructions in writing and would be helpful in giving such instructions to a child or someone who is unable to read. Crowell further discloses the device, which is capable of receiving and retaining (col. 2-lines 55-56) an audible message and which reads on a memory and processor that is inherently taught by the function of recording, retaining a message and playing back upon activation. Crowell further discloses an activation switch wherein the message is delivered when activated. Crowell further shows a speaker 28 in figure 1 for output of the audible message. Crowell discloses controls for operation of the audio message such as a play switch 30, record switch 31 and a pause switch (not shown) for greater flexibility and control.

Regarding **claim 12**, see Examiner's comments regarding claim 2.

Regarding **claim 13**, see Examiner's comments regarding claim 3.

Regarding **claim 14**, see Examiner's comments regarding claim 4.

Regarding **claims 16 and 23**, it is interpreted and thus rejected for the same reasons as set forth above in claim 1. Since claims 16 and 23 disclose a method, which corresponds to, the apparatus of claim 1; the method is obvious in that it simply provides functionality for the structure of claim 1.

Regarding **claims 18 and 24**, Crowell discloses everything claimed as applied above (see claim 16). Crowell discloses a record button in which additional instructions could be added when necessary as for example receiving a model with more components.

Regarding **claims 19-21 and 25-27**, see Examiner's comments regarding claim 3.

Claim Rejections - 35 USC § 103

5. **Claims 2, 29-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918) in view of Galloway et al. (US Patent No. 4,611,262).

Regarding **claim 2**, Crowell discloses the audible message in a greeting card. Crowell fails to specifically disclose that the speaker is a piezoelectric speaker. However, piezoelectric speakers are well known in the art and are commonly used in applications such as a greeting card or other small areas, as piezoelectric speakers are very lightweight and flat. Galloway et al. discloses greeting cards that play a small tune, which include small circuit boards with piezoelectric speakers attached (col. 1-lines 12-18). It would have been obvious for one of ordinary skill in the art to have used a piezoelectric speaker for the speaker disclosed by Crowell as the audible message delivery system is flat and lightweight and is attached to various applications.

Regarding **claims 29 and 30**, Galloway discloses everything claimed as applied above (see claims 9 and 10, respectively). Galloway further discloses the electric circuit is activated upon opening of the card (col. 4-lines 21-39).

Claim Rejections - 35 USC § 103

6. **Claims 5, 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crowell (US Patent No. 5,577,918) in view of Britton (US Patent No. 5,853,372).

Art Unit: 2644

Regarding **claim 5**, Crowell discloses everything claimed as applied above (see claim 1). Crowell further discloses activating switch 30 wherein LED 29 can be constructed to be illuminated whenever play activation switch 30 is pressed activates the message delivery circuit 22. However Crowell does not specifically disclose a photo diode. Britton discloses a photo-diode is activated by light applied thereto to generate a current. Therefore it would have been obvious for one of ordinary skill in the art to include a photo diode as the activation switch wherein when the flap is lifted in the reference taught by Crowell the exposure to light would activate the switch thereby activating the message delivery system and illuminating the LED for activation mode (col. 4-lines 22-24).

Regarding **claim 15**, see Examiner's comments regarding claim 5.

Regarding **claim 17**, see Examiner's comments regarding claim 5.

Response to Arguments

7. Applicant's arguments filed 6/17/03 have been fully considered but they are not persuasive. Applicant argues that 'Dobbins teaches audio instructions for medicine containers and does not teach instructions for a computer system'. However, Dobbins teaches a means for recording patient instructions and a storage means for retaining the recorded instructions for later retrieval. Dobbins provides "instructions" for a user and therefore it would have been obvious to one of ordinary skill in the art to apply the recording of audio instructions in any number of situations where a user would require audio instructions instead of paper instructions which would include a computer set up.

Art Unit: 2644

Dobbins further disclose a means for actuating the recorder and an audio signal generation means. Dobbins further disclose recording circuitry for encoding the verbal audio from the input means to the storage means, which reads on a processor. And therefore it would have been obvious to one of ordinary skill in the art to include a processor to perform these functions. Dobbins further discloses a display. Displays are used to display many functions. The display is present and therefore would have been obvious to one of ordinary skill in the art to display the desired user output for the purpose of a guide with the instructions, which would include the instruction number or label. The purpose of the audio instructions is for an alternative to paper instructions and allows the user flexibility of following instructions. Therefore when a display is present in such a device it would be obvious to have been included in further assisting the user.

Crowell discloses receiving and retaining an audio message, which to one skilled in the art would read on a processor and memory to perform these functions. Again in providing an audio message for a user could be used for various methods depending on what type of audio messages are recorded. The Examiner maintains that the audio message therefore could be recorded to provide instructions for anything, including a computer set up or information concerning the computer.

Galloway was cited to merely show that piezoelectric speakers are used when lightweight and small areas are in need of a speaker. The flexibility of the piezoelectric speaker would modify the other references in providing a smaller, lighter speaker for convenience in the various locations used to provide a user with audio instructions.

Art Unit: 2644

The Examiner maintains that providing audio instructions to a user in place of paper instructions is not a novel idea and can be used in many environments as shown in the cited references.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. McChesney whose telephone number is (703) 308-4563. The examiner can normally be reached Monday – Friday, 8:00 am – 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Art Unit: 2644

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

EAM

EAM
September 19, 2003


XU MEI
PRIMARY EXAMINER